

# A Performance Audit of the Mississippi Department of Transportation: A REQUEST FOR PROPOSALS



**Shad White**  
STATE AUDITOR

RFP No. 19-01-14-OSA  
To Provide a Performance Audit

Mississippi Office of the State Auditor  
501 N. West Street  
Suite 801, Woolfolk Building  
Jackson, MS 39201

Contact Person: Patrick Dendy  
Deputy State Auditor  
601-576-2800

[MDOT-RFP@osa.ms.gov](mailto:MDOT-RFP@osa.ms.gov)

Proposals must be received by 2:00PM  
CST Monday, March 4, 2019

Issue Date:

**January 14, 2019**

[www.osa.state.ms.us](http://www.osa.state.ms.us)



## **I. General Information**

The **Mississippi Office of the State Auditor (OSA)** is seeking sealed bids and proposals from firms to provide a performance audit or similar analysis of the Mississippi Department of Transportation (MDOT) and the Mississippi Office of State Aid Road Construction (State Aid Roads). **The performance audit or similar analysis should seek to find efficiencies and waste in Mississippi’s infrastructure spending.** The final report should be written with a lay audience in mind to best inform taxpayers, legislators, the Governor’s office, and MDOT about ways to save taxpayer money in road and bridge spending, while maintaining a high quality infrastructure program.

The Office of the State Auditor intends to contract for this performance audit. However, even though this type of audit service solicitation is exempt from the RFP and bidding requirements<sup>1</sup>, in an effort to garner the best possible competitive submission, OSA has chosen to use a sealed bid process for this service procurement. The payment for this analysis will be reimbursed to OSA by MDOT. The successful contractor will be required to complete and submit the final deliverable to OSA no later than October 31, 2019. This is a solicitation for an engagement with OSA, not an engagement with MDOT.

The OSA is undertaking this Request for Proposal (RFP) at the mandate of the Legislature and the Governor:

*The Department of Audit shall conduct and/or enter into contracts for a performance audit of any projects under the Mississippi Department of Transportation. In addition to other factors, the audit shall assess the effect of engineering fees on projects and whether the fees are excessive...If the Department of Audit enters into a contract with a private entity for the audit required under this section, the department shall ensure that such entity is adequately experienced with auditing other state departments of transportation or similar departments or agencies.* (HB1, Section 14, 1<sup>st</sup> Extraordinary Session, 2018)

OSA anticipates the term of the contract to be not more than eight months (on or about April 1, 2019 through October 31, 2019).

The deadline for sealed bids and proposals, which should include separate cost estimates, is at 2:00 PM Monday, March 4, 2019. If bids arrive after 2:00 PM on the deadline day, they will be returned unopened to the bidder via certified mail. The unopened bid will have a cover letter attached stating that the bid was received after the deadline and was not accepted. Respondents are solely responsible for ensuring their proposals are delivered on time. Delays caused by any delivery service, including the US Postal Service, will not constitute grounds for an extension of the deadline for the receipt of the proposals. Postmarking by the due date will not substitute for actual proposal receipt. Proposals may not be delivered by facsimile transmission or other telecommunication or electronic means.

The complete Request for Proposals, with submission requirements and instructions, can be found at [www.osa.ms.gov/Documents/Transparency/2019/19rMDOT Performance Audit RFP.pdf](http://www.osa.ms.gov/Documents/Transparency/2019/19rMDOT%20Performance%20Audit%20RFP.pdf)

Using the subject line “RFP for MDOT Performance Audit,” address any questions related to this Request for Proposals to:

Mr. Patrick Dendy, Deputy State Auditor  
Mississippi Office of the State Auditor  
501 N. West Street  
Suite 801, Woolfolk Building Jackson, MS 39201  
Phone: (601) 576-2800  
Fax: (601) 576-2687  
Toll Free: (800) 321-1275  
[MDOT-RFP@osa.ms.gov](mailto:MDOT-RFP@osa.ms.gov)

In any question submitted, sender must identify self, title, company, and contact information. OSA will post responses to [www.osa.ms.gov/Documents/Transparency/2019/19rMDOT Performance Audit Q&A.pdf](http://www.osa.ms.gov/Documents/Transparency/2019/19rMDOT%20Performance%20Audit%20Q&A.pdf)

<sup>1</sup> When contracting for audit services, OSA is exempt from PPRB regulations requiring a bidding or proposal process under PPRB rule 3-101.02 and §27-104-7(2)(f), MS Code Annotated.



To be considered for this RFP, bidders must follow the timeline below.

<b>RFP and Contract Award Time Line</b>	
<i>Item</i>	<i>Date of Action</i>
RFP Release and first legal notice:	Monday, January 14, 2019
Second legal notice:	Monday, January 21, 2019
Closing Date for Firm Inquiries:	Monday, February 4, 2019 at 5:00 p.m. CST
Response to Inquiries:	As received, but no later than on or about February 11, 2019
Proposal Submission Deadline:	Monday, March 4, 2019 at 2:00 p.m. CST
Selection:	On or about Monday, March 11, 2019
Contract Award:	On or about Monday, March 18, 2019

**II. Request for Proposals**

The following sections outline the specific areas for this RFP. OSA will evaluate and rank each response to this RFP based on overall evidence of capability, staffing, and experience in the areas relevant to the goals of this performance audit. The goal of this project is to determine if there are more efficient and effective ways of spending and managing MDOT’s transportation infrastructure funds. This analysis may include a review of construction projects, administrative costs, engineering fees, contract management, or any other MDOT or State Aid Roads function. The performance of MDOT and State Aid Roads should be compared to industry best practices; both from the public and private sector, and their performance should be compared to other states’ DOTs and their management and costs. In addition to these and any other factors deemed necessary, the audit shall assess the effect of engineering fees on transportation projects and whether such fees were excessive.

*For any submission under this RFP, the OSA selection committee will evaluate only information received in response to this RFP; reference to information previously submitted or discussed shall not be evaluated.*

OSA will evaluate all responsive proposals in the context of what it determines to be the most relevant factors. These subjective factors, which represent potentially determinative indicators of each respondent’s ability to meet the RFP objectives, will all be weighted equally and may include the following:

- Responsiveness — proposal thoroughness; understanding of GAO Yellow Book Performance Audit standards or other program evaluation techniques; understanding of and experience with large state agencies, especially State Departments of Transportation in other states; understanding of engineering fees and relevant best practices
- Organizational capabilities — ability to do business in Mississippi; requisite stability, financial strength, and technical resources; breadth of relevant project experience (as evidenced in part by client references); depth of relevant functional experience (performance reviews and infrastructure management practices in either the public or private sector); and familiarity with the subject
- Project team capabilities — a well-conceived staffing plan, with a sufficiency of expertise, experience, and other attributes of the proposed staff to fulfill the project needs
- Technical Approach — sound service plan and the ability to deliver the mandatory services in a timely, orderly, and productive manner, with a plan for overcoming any potential implementation issues
- Cost-effectiveness — overall value of proposed services, including contract service costs (unit and aggregate costs); likely fiscal and other quantifiable benefits associated with the service; likely usefulness of the final deliverable and work products for those who will implement the proposed changes; and the ultimate return on the state’s investment for the proposed services



OSA reserves the right to consider other factors as deemed necessary to meet or exceed its objectives for this project and to ensure that the state's interests are satisfied. Once decisions are made regarding the most cost-effective contractors for this project, OSA will proceed with the contract execution phase. OSA will select at least one respondent to provide the required services. OSA seeks to find one comprehensive firm that will provide their qualifications under this Request, so expertise in all specified areas is required for the qualified candidate. OSA reserves the right to award contracts to alternate respondents should contract awards with the recommended respondent(s) prove unproductive.

### **III. Anticipated Scope of Work**

Submissions should heavily emphasize the bidder's strengths in finding efficiencies and operational weaknesses that impact the effectiveness of program areas in state agencies, particularly agencies administering infrastructure funds. The scope of services may include the following:

1. Analysis using GAO Yellow Book Performance Audit standards or other program evaluation techniques to find efficiencies in MDOT and State Aid Roads programs and services, as well as identifying weaknesses in effective operations
2. Comparative engineering fee analysis to ensure that such project costs and fees are not excessive
3. Analysis of contract award procedures in general to ensure they provide for fair and cost-effective awards. This could include analysis of
  - a. whether project selection could be improved (what are the criteria, are they quantifiable, etc.),
  - b. if contracts are bid and managed in an efficient way,
  - c. how private sector vendors' capabilities are assessed, and
  - d. whether best-in-class infrastructure provider standards are being met.
4. Analysis and comparison of MDOT contract oversight to ensure they properly manage their projects to minimize cost overruns, change orders, and delays. This could include analysis of whether there are
  - a. claw back provisions and whether such provisions are being utilized when delays or other vendor related problems arise,
  - b. defined "stage-gates" (decision points) where MDOT decides to continue on a project or not, and
  - c. savings identified in previous projects and how those savings were found.
5. Analysis of MDOT and State Aid Roads' history of successful contract execution, which could include an analysis of the percentage of projects completed on time and on- or under-budget
6. Analysis of whether MDOT's organizational structure is appropriate to carry out best-in-class project selection
7. Comparative analysis between MDOT's procedures governing management of state-funded projects and those governing primarily federally-funded MDOT projects
8. Any other type of analysis that would identify waste or savings for taxpayers in MDOT's and State Aid Roads' operations and management
9. A final report with clear findings and recommendations taxpayers can easily understand and MDOT and the Legislature can use to manage state-funded projects better.

### **IV. Company Information**

Each prospective bidder shall provide a cover letter with their response that clearly identifies their interest based on the scope of work under this RFP. The cover letter shall be no more than three (3) pages and shall include, at a minimum, the company name, tax identification number, DUNS<sup>2</sup> number, description of the firm/team, the legal company organization,

<sup>2</sup> Data Universal Numbering System, abbreviated as **DUNS** or **D-U-N-S**, is a proprietary system developed and regulated by Dun & Bradstreet (D&B) that assigns a unique numeric identifier, referred to as a "**DUNS number**" to a single business entity. Businesses that contract with government agencies are required to have a DUNS number. Government agencies and private sector companies can review DUNS reports for information about a company.



primary contact name, phone number(s), address, fax number, and email address. Someone who can legally bind the company to a commitment in the future must sign the letter. As a clearly identified Appendix to this RFP, relevant organization chart(s) with names and titles need to be supplied. Finally, the certification found at the end of this RFP must be a part of the cover letter. **Also attached to this cover letter and proposal application should be an up-to-date DUNS report on the firm and any collaborators/partnerships working with that firm.**

## V. Qualifications Criteria

In order to be a qualified party, the successful respondent will provide sufficient information related to the following five areas. All qualified proposals will be evaluated and scored in a manner prescribed by OSA, with final selection made by the MS Office of the State Auditor. Any decision made by OSA will be final. Applicants are encouraged to organize their submissions in such a way as to follow the general evaluation criteria listed below. Information included may be used to evaluate your firm as part of any criteria regardless of where that information is found within these sections. Each of the five areas below will be weighted equally for evaluation and scoring purposes. OSA may use information obtained from the proposal and from any other relevant source in the evaluation and selection process. OSA will rank proposals received by the deadline stated above according to the completeness of the submission of the following criteria:

### 1. Relevant Firm Experience

- a. Provide a brief written assessment of the applicant's overall reputation, service capabilities, and quality as it relates to this project RFP.
- b. Provide a statement detailing whether the applicant is Mississippi owned and based, and if so, for how long. Where applicable, provide previous addresses if the applicant business has moved within the last ten years.
- c. List and briefly describe 3-5 comparable projects completed by the firm or currently in progress over the last five years; include the applicant firm's role and discuss contract amendment history, if applicable. For each project, include: contract value (original value plus all contract amendments, if applicable), project owner, project location, contact name and title, address, current/accurate telephone number, fax number, and email address (if available).
- d. Provide a minimum of three referrals and references from other agencies and owners. If possible, references should be from the projects listed above and should be limited to the last five (5) years.
- e. List all projects in the last five (5) years that were with the State of Mississippi or local Mississippi governments, or provide a statement that there were no projects in the last five (5) years with the State of Mississippi or any local government entity.
- f. List and describe any litigation; arbitration; claims filed by your firm against any project owner as a result of a contract dispute within the last five years; any claim filed against your firm within the last five years; or any termination from a project within the last five years.
- g. List applicant capacity and intent to proceed immediately if selected for this work.
- h. Provide photocopies (attached as a clearly marked Appendix to this response) of all relevant licenses, certifications, and professional memberships, etc.

### 2. Team Experience & Qualifications

- a. Describe each team member's position within the firm. Provide resumes of each proposed team member in Appendix A. List professional continuing education.
- b. Briefly describe each team member's role on this project. Please note, once listed in your RFP submission, these members would not be able to be reassigned without the approval of OSA as the Prime contractor and any reassignments would have to have equivalent qualifications. Please choose individuals with this in mind.
- c. Provide "team" experience working together on similar projects.
- d. Identify proposed sub-consultants, if any.
- e. Individually list any current employees who have previously been employed by the State of Mississippi or local Mississippi government within the last five years. Include the government entity, the positions of the employees, and dates of such employment.
- f. As an appendix that does not count against the page submission limitation, provide examples of output documents (final deliverables) from similar projects, especially if such product would be beneficial for the "lay person" (not just infrastructure specialists, for example).



3. Project Understanding and Approach

- a. Describe your understanding of the project.
- b. Identify and discuss any potential problems during design and implementation phase.
- c. Identify and discuss methods to mitigate those problems.
- d. Describe and discuss applicant areas of strength, as they would apply to this project.
- e. Describe applicant limitations, as they would apply to this project.

4. Approach to Project Management

- a. Describe your firm's project management approach and team organization during programming, designing, and implementation phases for similar projects. Describe how these areas apply to this project.
- b. Describe systems used for planning, scheduling, estimating, and managing project oversight and accountability services.
- c. Describe the firm's experience on quality assurance and dispute resolution.
- d. Describe the Quality Assurance/Quality Control as it relates to data and other information gathering for this project. Include a statement about how that would be implemented in this project.

5. Other Factors

- a. Provide current workload and ability to proceed promptly.
- b. Provide an estimate for the length of time expected for this project to be completed, including any relevant explanations for the time estimate.
- c. Provide statement of willingness to abide by all applicable state contract clauses as provided in the PPRB regulations found at <http://www.dfa.ms.gov/media/6559/4-6-18-final-opscr-rules-sos-apa.pdf> (See Appendixes C, D, E, and F of the PPRB regulations) with few or no objections or changes, and with the understanding that all relevant clauses will be incorporated, directly or by reference in a final contract.
- d. Provide a statement regarding assurance that this engagement will not result in a conflict of interest—including, but not limited to, audit engagements, other projects, oversight of existing contracts outside of state government, and any other official reasons that a conflict of interest might be determined under state and federal law.
- e. Provide relevant factors that may affect the quality and value of work.
- f. Provide a statement about the firm's willingness to work with stakeholders, like MDOT, State Aid Roads, and other policymakers, at the request of OSA.
- g. Identify any contract terms and conditions that could be problematic and disclose any potential exceptions to contract terms listed throughout this RFP in the proposal submission proposals.
- h. List any special contract terms and conditions the firm/team would like to be considered for inclusion in any contract it might execute with OSA under this RFP.

VI. Submission Requirements: Technical Proposal

**There should be no dollar unit or costs included in the Technical Proposal Document.** The proposal shall include a cover letter of no more than three (3) pages, plus a maximum of twenty (20) pages to address the proposal criteria specified above (excluding resumes, which should be clearly designated in a separate Appendix, and other items mentioned as being excluded from page limitations).

Any Table of Contents and section divider pages will not count towards the total page count. Resumes for each anticipated key team member shall be limited to no more than three pages and shall be attached to a clearly marked Appendix. *Be aware that team members identified in the proposal will be regarded as the key staff for the contract, if selected.* Please use page numbers in the submission.

One original (marked as the original) and five (5) copies of the proposal and appendices (six (6) total sets of documents) must be submitted in sealed packaging by the deadline in order to be considered. Please note: Company name, logo, or any other identifying information must be redacted from the five (5) copies of the proposal response.



Failure to comply with the following criteria may be grounds for disqualifications:

- Receipt of submittal by the specified cut-off date and time;
- The number of originals and/or copies of the submittal specified; and
- Adherence to maximum page requirements.

Adherence to the maximum page criteria is critical; each page side (maximum 8 ½" X 11") with criteria information will be counted. Pages that have photos, charts, and graphs will be counted towards the maximum number of pages, unless they are requested in this document as a part of an appendix.

PLEASE NOTE:

1. Submitter must ensure that the outside packaging must have the following label clearly visible: **“MDOT PERFORMANCE AUDIT RFP TECHNICAL PROPOSAL.”**
2. *Sealed proposals must be separate from sealed bids*, but within the same single submission package. Bids will remain sealed until the evaluation of bids begins. Interested bidders must submit one (1) original (marked as an original) and five (5) copies of the bid, separate from the sealed proposals.
3. There should be no dollar unit or costs included in the Technical Proposal Document.

#### **VII. Cost Proposal/Bid Submission**

Bids shall be submitted in the same package as the copies of the proposal, but shall be sealed separately from the proposals. Submitter must ensure that the outside packaging for the cost proposal/bid has the following label clearly visible: **“MDOT PERFORMANCE AUDIT RFP SEALED COST PROPOSAL/BID SUBMISSION.”** Any bids received that are not under separate sealed packaging from the proposals will be returned to the offeror. Written bids shall be in the form of a narrative and separate cost schedule format that details the allowed cost elements of this RFP. Those elements shall include:

1. A statement of total estimated price based on the bidding requirements below;
2. Aggregate hourly staff rate based on the cost per hour of all staff to be assigned to the project, which includes any fringe benefits and other allowable costs listed in Section VIII;
3. Estimated travel costs based on the allowed elements listed in section VIII under “travel expenses.”
4. Other estimated expenses that would be directly related to this project, but which are not already included in items #2 or #3 above.
5. Name, address, e-mail address, point of contact, and telephone number of the offeror. The point of contact for the bid portion of this RFP may be different from the point of contact for the technical proposal portion of this RFP.

The narrative shall describe the elements of the separate cost schedule and both shall address the calculation of the total estimated cost for this project.

#### **VIII. Cost Proposal/Bidding Requirements**

Please submit one (1) original and five (5) copies of the cost proposal/bid in a single sealed envelope or packaging. An official authorized to contractually bind the prospective bidder shall sign the cost proposal/bid. The sealed bid package must contain the phrase **“MDOT PERFORMANCE AUDIT RFP SEALED COST PROPOSAL/BID SUBMISSION.”** The cost proposal/bid should contain a separate transmittal letter signed by an official authorized to bind the firm to its provisions. Bidders must provide the information described below for the contract period. *The rates included in the proposal should be the firm’s lowest discounted governmental rates.*

**OSA will require submission of adequate documentation from the contractor to verify expenses prior to reimbursement.**

**Staffing Cost Rates.** The cost proposal/bid should be consistent with its technical proposal submission related to staffing and experience.



Hourly fees should be inclusive of all administrative expenses (i.e., computer charges, copying, postage, and other expenses related to this engagement). Expenses such as office space, equipment and supplies for on-site work performed by the contractor must not be included in the contractor's proposed project costs. Any contract awarded will not provide reimbursement for office space, equipment, or supplies (unless the supplies are directly related to approved contract elements, such as report generation, correspondence, etc.). However, OSA will make every effort to assist the successful bidder with obtaining workspace within the MDOT building, potentially to include Wi-Fi access. OSA will compensate the contractor following the submission of an approvable invoice, with sufficient detail on a reimbursement basis. Invoices should be submitted for hourly on-going assistance on monthly basis, in the month following the period in which the services were performed, and for assignments with deliverables upon completion of those work products.

**Travel expenses** will be reimbursed to cover the cost of travel for the contractor. Reimbursements are for actual expenses not to exceed the limits shown below. Invoices with sufficient detail and additional documentation must be provided for reimbursement. OSA will reimburse for travel expenses as follows:

- **Hotel/Motel** — Receipt required. In general, it is expected that the contractor will not utilize any extravagant facilities and will attempt to keep costs down. Any lodging costs in excess of \$125 per night must be pre-approved in writing by OSA. Some hotels using state contract pricing will allow cost reimbursable contractors on official business to take advantage of the state contract rates. To determine which state contract hotels will allow this, go to <http://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/bureau-of-purchasing-and-contracting/negotiated-contracts/g-h-i/hotel-motel-services/> Click on the link for Hotel/Motel Services. The hotels listed are under the currently approved contract. You will have to ask the hotel when you call them if they will allow you as a Cost Reimbursable contractor on Official Business to use the state approved rate.
- **Meals** — Receipts for meals are required. As of October 1, 2018 through September 30, 2019, the rate for the Jackson metropolitan area/maximum state rate is \$41 per day, with the exception of travel in three defined high cost areas (Oxford-\$51/day, Southaven and Starkville—both \$46/day). OSA will reimburse necessary expenses according to the state employee reimbursement rates for the location visited not to exceed actual expenses covered by receipts. All location rates can be viewed at <http://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/bureau-of-purchasing-and-contracting/meal-reimbursement/>
- **Mileage** — Mileage is limited to the current rate of reimbursement allowed for employees if contractor is in travel status for OSA and uses a personal car.
- **Car rental** — The contractor will be reimbursed at actual costs.
- **No travel to conferences or other contractor training** will be reimbursed under this contract unless OSA requests such travel. The contractor is assumed to have and be able to maintain sufficient and adequate knowledge through its normal course of business. This contract is only for a performance audit (or other similar program evaluation) of MDOT.

**Assume that all travel expenses paid under this contract must conform to state travel reimbursements for employees and that mileage, hotel, and meal limitations will apply. Those rules may be found at <http://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/bureau-of-purchasing-and-contracting/travel/>.**

**Other Expected Expenses.** Any expenses directly related to this project, not already covered under staffing costs or travel expenses and not already precluded by an earlier section should be listed under this item. In the narrative, a general list of the items with an explanation for their inclusion and in the separate cost schedule, just the category "Other Expenses" as an item is sufficient.

## **IX. Addenda: Errors and Omissions**

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, immediately notify the OSA contact person, Patrick Dendy, Deputy State Auditor, of such error and request clarification or modification to the document. OSA shall make RFP modifications by addenda, provided that any such modifications would not materially benefit or disadvantage any particular firm.

If a bidder fails, prior to the proposal submission deadline, to notify OSA of a known error or an error that reasonably should have been known, the bidder shall assume the risk. If awarded the contract, the bidder shall not be entitled to additional compensation or time because of the error or its late correction.

**X. Bid Evaluation**

OSA will conduct a comprehensive, fair, and impartial evaluation of bids received in response to this RFP. OSA will determine if each bid is sufficiently responsive to the RFP. Each bid that is incomplete will be declared non-responsive and will be rejected with no further evaluation. OSA reserves the right to waive minor variances or reject any or all bids. OSA also reserves the right to request clarifications from all bidders. The bidder must provide a sufficiently detailed response demonstrating that the bidder considered all requirements and developed a specific approach to meeting each requirement. Bids will be evaluated on performance auditing and program evaluation experience, the description of proposed services, price, and ability to meet the agreed upon requirements for the evaluation of MDOT. Bids shall provide a description of the bidder's experience in conducting, developing, and preparing program and operation evaluations, transportation infrastructure related projects, efficiency and effectiveness reviews, and their experience working with government agencies on similar matters.

**XI. Future Payment Under Contract**

OSA agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," Section 31-7-301, *et seq.* of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts within forty-five (45) days of receipt of the invoice. The state requires the contractor to submit detailed invoices electronically throughout the term of the agreement. Vendor invoices shall be submitted to OSA using the processes and procedures identified by the state. Payments by OSA using the statewide accounting and procurement system (MAGIC) shall be made and remittance information provided electronically as directed by the state (See E-Payment to Vendors, below). The successful bidder must be willing to receive electronic payments.

**XII. Terms of the Contract**

The successful bidder will enter into a contract with OSA for a term of up to eight months to be completed by October 31, 2019. The term will begin on or after March 18, 2019. At its discretion, OSA reserves the right to terminate the contract with or without cause, at any time upon the giving of thirty-day (30) advance written notice to the other party. Other terms and conditions may become part of the final contract terms.

The successful bidder that contracts with OSA understands and agrees that all of this Agreement is funded by the Mississippi Department of Transportation through reimbursement to OSA and, OSA represents and warrants that it will comply with all state laws and regulations that are required.

**XIII. Acknowledgment of Amendments**

Respondents shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose on the bid form, or by letter. OSA must receive the acknowledgment by the time and at the place specified.

**XIV. Other RFP Guidelines****Offeror Inquiries**

All questions in regard to this RFP must be made in writing by e-mail to the designated contact listed in the first section of this RFP. Respondents may submit written questions no later than Monday, February 4, 2019, at 5:00PM CST. It is the offeror's responsibility to determine whether the RFP Contact has received such communications. The state will post the addendum with all of the questions and answers asked on or about Monday, February 11, 2019.

**Proposal Acceptance**

The issuance of this RFP does not constitute a commitment by OSA to award a contract or pay any costs incurred by offerors in responding to this RFP, providing additional information or for participating in any presentations or interviews. OSA reserves the right, in its sole discretion, to reject any or all proposals, or any portions thereof, to waive any



irregularities or informalities in the proposal process, to accept or reject any item or combination of items, to re-advertise for proposals, to withhold the award for any reason it determines, or to take any other appropriate action that is in OSA's best interest. As a result of the selection of an offeror, OSA is neither endorsing nor suggesting that the offeror's services are the best or only solution.

**Offeror Representations**

All offerors are responsible for obtaining a sufficient understanding of OSA's requirements to adequately respond to this RFP. The failure of any offeror to examine this RFP shall in no way relieve it of its obligations with respect to its proposal or, if it is selected, the subsequent contract. If a respondent is unable to meet any requirements set forth herein, then it must clearly indicate any requirements it is unable to meet within the technical proposal submission. The vendor agrees to make no reference to OSA, in any literature, promotional material, brochures, sales presentation or the like without OSA's written permission.

**Proprietary Information**

OSA will not disclose any portion of any proposal prior to the award of a contract to anyone other than the members of the evaluation committee, or other relevant OSA staff. After a contract is awarded in whole or in part, OSA shall have the right to duplicate, use, or disclose all proposal data submitted by offerors in response to this RFP as a matter of public record. Moreover, OSA shall have the right to use any ideas, or adaptations of such ideas, contained in any proposal received in response to this RFP, and neither the selection nor rejection of any proposal will in any way impair this right. If a proposal contains any information in areas that an offeror views as proprietary, that offeror is required to specify that information as such in the proposal for it to be held confidential.

**Offeror Staffing under this RFP**

Any staff listed as part of the project team in response to this RFP will be the approved staff for any contract awarded and will not be able to be reassigned without the approval of OSA as the Prime contractor. Any replacements or reassignments shall have equivalent qualifications and be approved by OSA. Please choose individuals with this in mind.

If the winning bidder utilizes subcontracting, the primary pool for those subcontracts will be qualified firms that submitted under this RFP. Ultimately, funding amounts and priorities will drive the final scope of services. OSA will adhere to any state and federal laws or regulations regarding minority business set-asides.

**Other Issues**

OSA reserves the right, in its sole discretion, to postpone or cancel this RFP, reject any or all proposals, waive any irregularity or informality in any proposal or the selection process, cancel any award made pursuant to this RFP, and award any contract for the items herein, either in whole or in part, based on the best interests of OSA and the State of Mississippi. The decision of the State Auditor shall be final and conclusive.

OSA reserves the right to be the sole judge of the merits of the respective proposals received. In addition, OSA may choose not to pursue a contract or contracts for services, should funding not be available or should it be insufficient. This request for proposals does not obligate OSA to pay any costs incurred by respondents in the preparation and submission of their statement of interest. Furthermore, the request does not obligate OSA to accept or contract for any expressed or implied services. OSA may or may not negotiate the scope of services with one or more respondents. The decision of OSA is final. All proposals and bids will be confidential until OSA publicly opens them after the submission deadline has passed.

OSA does not discriminate based on race, religion, national origin, sex, age, or disability. OSA will adhere to any state and federal laws or regulations regarding minority business set-asides.

OSA reserves the right to exclude any non-responsive bids from any consideration for contract award. OSA will award the contract to the bidder whose bid is most responsive to the solicitation and is determined to be most advantageous in price, quality, and other factors considered. OSA reserves the right to award the contract to a bidder other than the lowest price bidder when it can be clearly demonstrated, to the satisfaction of OSA, that award to the low bidder would not be in the best interest of OSA and the State of Mississippi.

Direct all questions pertaining to the proposal process or the contemplated contractual services in writing, via e-mail, to Patrick Dendy, OSA Deputy State Auditor (contact information provided on page 1). Any changes to this notice will be posted on the OSA website as an addendum and provided to anyone who has already requested updates.



Any contract for this project will be based on services stated on a cost reimbursement basis (hourly rate fixed). Any contract(s) awarded under this RFP will have a “not-to-exceed” clause which will limit the allowable fees charged in connection with this project through close out.

The project and contract(s) will be developed in a manner that satisfies all applicable federal, state, and local laws and regulations.

The successful bidder must agree to maintain precise and accurate records of all expenditures and all matters related to the contract (contemplated by this RFP). In addition, the successful respondent must be willing to transfer all records of any kind, whatsoever related to such a project, to OSA at the end of the contract, and make such records available to the OSA for inspection, without notice, at any time during the term of the project.

#### **XV. Required State and Federal Contract Certifications and Representations and E-Payment to Vendors**

##### **Applicable Law**

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the state. Contractor shall comply with applicable federal, state, and local laws and regulations.

##### **Availability of Funds**

It is expressly understood and agreed that the obligation of the OSA to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the OSA, then OSA shall have the right upon ten (10) working days written notice to contractor, to terminate this agreement without damage, penalty, cost or expenses to the OSA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

##### **Procurement Regulations**

The contract shall generally be governed by the applicable provisions of the Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.

##### **E-Payment**

Contractor agrees to accept all payments in United States currency via the State of Mississippi’s electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on “Timely Payments for Purchases by Public Bodies,” which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-301 *et seq.*

##### **Paymode**

Payments by state agencies using the state’s accounting system shall be made and remittance information provided electronically as directed by the state. These payments shall be deposited into the bank account of the contractor’s choice. At its sole discretion, the state may require the contractor to submit invoices and supporting documentation electronically at any time during the term of this Agreement. Contractor understands and agrees that the state is exempt from the payment of taxes. All payments shall be made in United States currency.

##### **Compliance with Laws**

Contractor understands that the OSA is an equal opportunity employer and therefore, maintains a policy, which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and contractor agrees during the term of the agreement that contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

**Representation Regarding Any Conflict of Interest**

Section 25-4-101, et sec., Mississippi Code, Annotated references prohibitions against conflicting party interests. The successful bidder that is awarded a contract, upon executing such a contract must certify and represent they shall not, at any time during the duration of the awarded contract or for one year prior, have an accounting, auditing, or any other relationship with any entity covered under the contract that may impair the independence of the contractor. Further, the successful bidder that is awarded a contract under this RFP shall certify that it does not and did not hold any ownership interest in any entity that is eligible to receive funds through MDOT or any vendors associated with MDOT. The contractor must disclose all entities for which they have performed work in the last two years.

**Representation Regarding Contingent Fees**

The respondent represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the contractor's bid or proposal.

**Representation Regarding Gratuities**

The respondent, bidder, offeror, or contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.

**Certification of Independent Price Determination**

The respondent certifies that the prices submitted in response to the solicitation have been arrived at independently and without - for the purpose of restricting competition - any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions**

The prospective primary bidder certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding this Request for Proposals been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses enumerated in item 2 of this certification; and
4. Have not within a three-year period preceding this Request for Bid had one or more public transactions (federal, state or local) terminated for cause or default.

Where the prospective bidder is unable to certify to any of the statements in this certification, such prospective bidder shall attach an explanation to this RFP.

**E-Verification**

The respondent represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the state, to provide a copy of each such verification to the state. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject contractor to the following:

- (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;



- (b) the loss of any license, permit, certification, or other document granted to contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or both.
- (c) In the event of such termination/cancellation, contractor would also be liable for any additional costs incurred by the state due to contract cancellation or loss of license or permit.

**Federal, State, and Local Tax Obligations**

By submission of a proposal, contractors and subcontractors assert and self-certify that all federal, state, and local tax obligations have been or will be satisfied prior to receiving any payments.

**Transparency**

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the “Mississippi Public Records Act of 1983,” and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.*, and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration’s independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information that is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

**Trade Secrets, Commercial And Financial Information**

It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

**OSA Access to Records and Other OSA Issues**

In any contract under this RFP, OSA will require the contractor to agree to allow OSA access to records and employees pertaining to the performance of any contract awarded under this RFP. In addition,

- The contractor shall expressly acknowledge that it is properly registered with the Mississippi Secretary of State’s Office;
- OSA shall not be liable to the contractor for any benefits or coverage under Mississippi’s worker compensation law and no person employed by the contractor shall be considered a state employee for the purpose of worker or unemployment compensation coverage;
- The contract will constitute the entire agreement between the parties relating to this document’s subject matter and likely include the following terms and conditions:
  - The contract shall be subject to the availability of funds and the proper encumbrance of contract funds;
  - The contractor shall not assign or transfer any contractual interest without OSA’s prior written consent;
  - The contractor shall maintain complete, accurate personnel records in accord with state policies;
  - The contractor shall disclose any convictions or charges for violations of any relevant laws or regulations made by a court or other governmental entity against the contractor or any of its principals;
  - The contractor will comply with any reporting requirements tied to this scope of work;
  - The contractor shall pay for any independent audit by a professional auditing firm of all contract services and underlying processes, transactions, data and documents, if required; and
  - The contractor’s representatives will cooperate with OSA in the performance of all contract services, including appearances before legislative bodies at reasonable times with prior notice.



## ***XVI. Definitions***

The term “**Bidder**” shall be defined as an individual, organization, or company that is external to the State of Mississippi and submits a bid for this procurement opportunity. For the purposes of this RFP, OSA will use the following terms interchangeably: bidder, consultant, contractor, firm, offeror, proposer, and vendor.

The term “**MAGIC**” refers to the Mississippi State Government’s Enterprise Resource Planning (ERP) solution. MAGIC is the statewide accounting and procurement system of record, encompassing Finance (accounting, budgeting, grants management), Logistics (procurement, fleet management, inventory management), and Data Warehouse functionality. A non-MAGIC entity refers to any entity not directly connected to the MAGIC system and includes universities, community and junior colleges, school districts, municipal and county government, any other government or quasi-government entity, for-profits, and not-for-profits.

A “**Responsive Submission/Proposal**” refers to a respondent’s submission, which adequately addresses all requirements and elements of this RFP.

A “**Non-Responsive Submission/Proposal**” refers to a respondent’s submission, which does not adequately address all requirements and elements of this RFP.



*PLEASE NOTE: Each submission shall contain the following certification as part of the Cover Letter:*

**Prospective contractor's Representation Regarding Contingent Fees**

The respondent (prospective contractor) represents as a part of this submission that such contractor

has

has not

retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



For more information about this issue, contact  
The Office of the State Auditor  
Post Office Box 956  
Jackson, MS 39205-0956  
Phone: 601-576-2800 in the Jackson area or  
1-800-321-1275 Statewide  
Fax: 601-576-2687  
Website: <http://www.osa.state.ms.us>

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